

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

WILLIAM E. SMITH, III, *et al.*,

Plaintiffs,

vs.

No. CIV 00-957 LH/RLP

AZTEC WELL SERVICING CO.,

Defendant.

MEMORANDUM OPINION AND ORDER

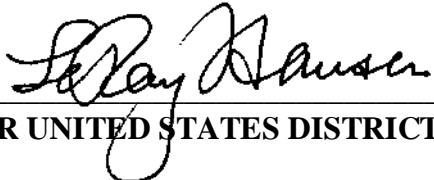
THIS MATTER was tried to a jury, which returned a verdict for the Plaintiffs on February 23, 2004 on the question of the Defendant's liability under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* [hereinafter FLSA]. The issue of whether the Plaintiffs are entitled to liquidated damages remains for the Court to decide as a matter of law. 29 U.S.C. § 260. The Court, having considered the pleadings submitted by the parties, the trial transcript, the applicable law, and otherwise being fully advised, finds that the Defendant employer has shown that the act or omission giving rise to its liability was in good faith and that it had reasonable grounds for believing that its act or omission was not a violation of the FLSA.

The Defendant company has asserted, and the Court agrees, that it has made every attempt to comply with the law, both in regard to the FLSA and otherwise. The evidence adduced at trial supports this conclusion. While it is the Defendant's burden to show that the Plaintiffs are not entitled to liquidated damages, the Plaintiffs' failure to comply with the Court's order to brief this issue was persuasive as well.

The Defendant consulted with attorneys and accountants in order to determine whether its payment practices complied with the FLSA and other applicable laws. It also relied on the then-current state of the law in developing those practices. Furthermore, the Defendant complied with the custom and practice in the industry in formulating its policy for the payment of travel time. In sum, the Defendant made a good faith attempt to comply with the law in all respects. It has shown that it acted in good faith in not paying the Plaintiffs for their travel time, and had reasonable grounds for believing that the FLSA did not require it to do so.

IT IS THEREFORE ORDERED that the Plaintiffs shall not be awarded liquidated damages.

IT IS SO ORDERED.



SENIOR UNITED STATES DISTRICT JUDGE